

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

**(1) DEBORAH PONDER; and
(2) MICHAEL PONDER,**

Plaintiffs,

v.

**(1) CREEK NATION COMMUNITY
HOSPITAL;
(2) THE UNITED STATES OF AMERICA;
(3) REGIONAL BRAIN INSTITUTE, PLLC;
(4) JAMES VERNON ROOKS, M.D.;
(5) PETER ECKHARDT, PA-C; and
(6) KIMBERLY GAGE, M.D.,**

Defendants.

Case No. 22-cv-00513-TCK-JFJ

**Removal from Tulsa County
District Court Case No. CJ-2021-3150**

NOTICE OF REMOVAL

The United States of America and on behalf of Creek Nation Community Hospital and Peter Eckhardt, PA-C (collectively “Defendants”), by and through Clinton J. Johnson, United States Attorney for the Northern District of Oklahoma, and Rachel D. Parrilli, Assistant United States Attorney, for their Notice of removal pursuant to 28 U.S.C. § 1442, hereby state as follow:

1. On November 3, 2021, Deborah and Michael Ponder (“Plaintiffs”) filed a Petition against Defendants, not including the United States, in Tulsa County District Court Case No. CJ-2021-3150. (Docket Sheet in Tulsa County District Court Case No. CJ-2021-3150, attached as Exhibit 1; Petition filed in Tulsa County District Court Case No. CJ-2020-1446, attached as Exhibit 2).
2. On October 18, 2022, Plaintiffs filed their First Amended Petition against Defendants in Tulsa County District Court Case No. CJ-2021-3150, and included the United States as a

Defendant. (First Amended Petition filed in Tulsa County District Court Case No. CJ-2021-3150, attached as Exhibit 3).

3. The United States is entitled to remove the Tulsa County District Court Case No. CJ-2021-3150 pursuant to 28 U.S.C. § 1442, which provides, in pertinent part:

(a) A civil action or criminal prosecution that is commenced in a State court and that is against or directed to any of the following may be removed by them to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) The United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, in an official or individual capacity, for or relating to any act under color of such office or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue.

Id. § 1442(a)(1).

4. As the United States is included as a Defendant in this case, removal to this Court is proper under 28 U.S.C. § 1442.

WHEREFORE, the United States of America and on behalf of Creek Nation Community Hospital and Peter Eckhardt, PA-C, hereby gives notice of removal of Tulsa County District Court Case No. Case No. CJ-2021-3150 to the United States District Court for the Northern District of Oklahoma.

Respectfully submitted,

UNITED STATES OF AMERICA

CLINTON J. JOHNSON
United States Attorney

s/ Rachel D. Parrilli

Cathryn D. McClanahan, OBA No. 14853

Rachel D. Parrilli, OBA No. 18762

Assistant United States Attorney

110 West 7th Street, Suite 300

Tulsa, Oklahoma 74119

T: 918-382-2700

F: 918-560-7948

rachel.parrilli@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2022, via electronic mail, I transmitted the forgoing to the following:

Daniel B. Graves
Rachel E. Gusman
Graves McLain PLLC
4137 S. Harvard, Suite F
Tulsa, OK 74135

Matthew A. Nace
Paulson & Nace, PLLC
1025 Thomas Jefferson St., NW
Suite 810
Washington, DC 20007

s/Michelle Hammock

Michelle Hammock
Paralegal Specialist